

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

DUKHAN MUMIN,

Petitioner,

vs.

BRAD HANSEN,

Respondent.

8:19CV272

MEMORANDUM AND ORDER

This matter is before the court on Petitioner Dukhan Mumin's Motion for Relief from Judgment pursuant to Federal Rule of Civil Procedure 60(b)(4) (filing 43) and supplement (filing 44). Mumin asserts the court's decision "dismissing Mumin's request for equitable tolling, because he had not sought authorization from the Eighth Circuit, is void and inconsistent with due process." (Filing 43 at CM/ECF p. 3.)

The court dismissed Mumin's habeas petition on March 16, 2020, concluding that it was a successive § 2254 petition for which Mumin was required to obtain authorization to file from the Eighth Circuit Court of Appeals. (Filings 21 & 22.) Mumin prosecuted an appeal of the court's decision which was dismissed on August 13, 2020. (Filing 42.) Mumin has also filed two previous motions for relief from the court's judgment pursuant to Rule 60(b)(4) (filings 29 & 40), both of which this court denied (filings 35 & 41).

Mumin's present motion for relief from the court's judgment will likewise be denied. Mumin's reliance on this court's decisions in *Edwards v. Capps*, No. 4:19-CV-3033, 2020 WL 4732059 (D. Neb. Aug. 14, 2020), and *Alvarado v. Hansen*, No. 8:17CV283, 2018 WL 4006768 (D. Neb. Aug. 22, 2018), is misplaced. Neither of those cases dealt with the question of a successive petition, but rather addressed the question of equitable tolling in considering whether the

petitioners' *initial* § 2254 habeas petitions were barred by the one-year statute of limitations.¹ The court has carefully considered Mumin's arguments in its previous Memorandums and Orders (filings 21 & 35), and for those same reasons,

IT IS ORDERED that: Petitioner's Motion for Relief from Judgment (filing 43) (and any amendments or supplements thereto) is denied.

Dated this 10th day of February, 2021.

BY THE COURT:



Richard G. Kopf
Senior United States District Judge

¹ In both cases, the court granted the Respondents' motions for summary judgment finding the petitions were barred by the statute of limitations.